

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

CITY OF CONCORD, NEW HAMPSHIRE :
Paul F. Cavanaugh, City Solicitor :

vs. :

LOCAL NO. 1045, INTERNATIONAL :
ASSOCIATION OF FIRE FIGHTERS, :
AFL-CIO - CLC, CONCORD, N. H. :

CASE NO. F-0101-B

DECISION NO. 780056

APPEARANCES

Representing the City of Concord, New Hampshire:

Paul F. Cavanaugh, Esq., City Solicitor
Clayton E. Higgins, Chief, Concord Fire Department
William Wilson, Attorney
Juanita V. Field, Industrial Phycologist
David Bibber, Chief, Dover Fire Department

Representing Local 1045, IAFF, Concord:

Vincent P. Dunn, Esq., Counsel
George Dickson, President
Edward Joaquin, Captain
Ronald Philibert, Manchester Fire Fighters' Association

BACKGROUND

The City of Concord by its representative, City Solicitor Cavanaugh, petitioned for a Declaratory Judgment on the composition of union negotiating teams for supervisory bargaining units under the provisions of RSA 273-A, specifically in relation to Units "A" Firefighters Unit and "B" Supervisory unit created by PELRB's Order dated November 30, 1976 for the Concord Fire Department.

PELRB, in response, issued a ruling that the units could be represented in negotiations by anyone of their choice in accordance with 273-A and that all parties had the right to be represented by Counsel, including non-legal counsel in all matters.

The City requested a rehearing in accordance with the provisions of RSA 541 stating that the PELRB ruling was unlawful and unreasonable and contrary to the legislative intent of RSA 273-A which clearly provided that "Persons exercising supervisory authority involving the significant exercise

of discretion may not belong to the same bargaining unit as the employees they supervise".

Rehearing was granted and held in the Board's offices on December 20, 1978 at which time evidence was presented by both parties. Extensive testimony was presented by witnesses for the City on the numerous problems created in other departments where similar situations existed and on the normal and psychological effect on the day to day operations of a department; i.e., division of loyalties, impairment extended to discipline, assignment of duties, etc., when a bargaining unit representative sits at the negotiation table for multiple units.

FINDINGS OF FACT

1. Local 1045, IAFF, is the certified representative of
UNIT "A": Fire Fighters; Dispatcher, Fire Department;
Fire Alarm Lineman; Fire Prevention Inspector; and,
Firefighter Mechanic, and

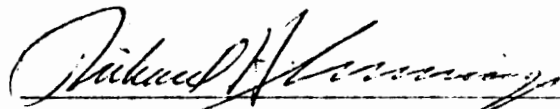
UNIT "B": Lieutenants; Chief Mechanic, Fire Department;
Fire Alarm Superintendents; Assistant Fire Prevention
Officer; Fire Prevention Officer; and, Training Officer,
Fire Department.
2. The question of whether negotiations with each bargaining unit within an employee organization must be separate and distinct from negotiations with other bargaining units within the same employee organization is not addressed specifically under 273-A. The only reference to separate units is under Section 8, II, "Persons exercising supervisory authority involving the significant exercise of discretion may not belong to the same bargaining unit as the employees they supervise (emphasis added).
3. Members of the Supervisory Unit, Unit "B" of the Concord Fire Department are not in the same bargaining unit as those employees they supervise, Unit "A".
4. Negotiations by a multi-unit association may be carried by a single bargaining team representing all units within the organization. The parties are not foreclosed, however, from agreeing that each bargaining unit within the organization will bargain separately and such an agreement could be reached in the ground rules stage of the negotiations. In the absence of an agreement of the parties that the negotiations shall be handled otherwise, a single bargaining team can be established by the employee organization to represent all bargaining units within the organization in the negotiations process.

5. Although it might not be in the best interest of each unit to be represented by the same bargaining team, neither the statute nor does practice prohibit such methods.

The make up of the employees' bargaining team should be established by the employee organization without interference from the employer and, in turn, the employer may negotiate through a representative or representatives of his own choosing

BOARD RULING

After careful consideration of the evidence presented on the impact of multiple bargaining units within an employee organization on the negotiations process, the Public Employee Labor Relations Board hereby reaffirms its original ruling that the parties have a right to be represented by any one of their choice.



RICHARD H. CUMMINGS, ACTING CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

By unanimous vote: Richard H. Cummings, presiding, members Joseph B. Moriarty and James C. Anderson present and voting. Also present, Board Clerk, Evelyn C. LeBrun

Signed this 23rd day of January, 1979